REMARKS

Claims 13-32 were previously pending in the application. By this Amendment, Claims 13, 19 and 21 are currently amended, Claims 25, 26 and 32 are withdrawn without prejudice, and Claims 14-18, 20, 22-24 and 27-31 remain unchanged.

Applicants' hereby confirm the election to prosecute the invention of species A, i.e., Claims 13-24 and 27-31. Claims 25, 26 and 32 have been indicated as withdrawn.

In the specification, certain Amendments have been made to correct obvious typographic and grammatical errors. In addition, Amendment has been made to the last paragraph on page 9 to reflect an Amendment to the Drawings as discussed further herein.

With respect to the Drawings, attached are replacement drawings indicating a change in the Drawings which now illustrate a separate portion as element 19 in Fig. 2 in a manner in which does not introduce new matter and is a repeating of element number 14 shown in the Drawings, thereby illustrating the subject matter of Claims 24 and 29.

As to the objection to Claim 19, the suggested change has been made and it is believed sufficient reason is given so that the objection to the claim can now be withdrawn. With respect to the 35 USC §112 rejection of the claims, Claim 13 is now amended to delete the recitation of "controlling the temperature" and now states the step of "visually observing a temperature variable property of the temperature sensitive element." Thus, it is believed by this change that sufficient reasons are also provided to enable the Examiner to withdraw the 35 USC §112 rejection of Claims 13-16.

The claims also stand rejected under the cited prior art of record. Specifically, Claims 13, 15, 17, 19 and 27 were rejected under 35 USC § 102(b) has being anticipated by U.S. Patent No. 2,923,786 ("Jones"). Claims 14, 18 and 31 were rejected under 35 USC § 103(a) as being unpatentable over Jones. Claims 16, 20-24 and 28-30 were rejected under 35 USC § 103(a) as being unpatentable over Jones, and further in view of U.S. Patent Publication No. 2003/0147450 A1 ("Witonsky").

Amended independent Claim 13 recites a process for monitoring the temperature in a refrigerator. The process includes the steps of forming a unit from a temperature sensitive element and a thermal buffer liquid in a substantially transparent container. The unit container is placed at a site to be monitored inside a refrigerator. A temperature variable property of the temperature sensitive element is visually observed to determine if the temperature in the refrigerator is at, below or above a predetermined temperature range.

Independent Claim 17 recites a unit for monitoring the temperature in a refrigerator which includes a container, a thermal buffer liquid in the container, and a temperature sensitive element in thermal contact with the buffer liquid.

Independent Claim 27 further claims a temperature sensitive element for a unit for monitoring the temperature in a refrigerator. The unit includes a container with a thermal buffer liquid therein. The temperature sensitive element includes a body for thermal contact with the buffer liquid which is immersed to swim in the buffer liquid, and having different substantially discreet values of a property which can be visually observed of at least one of above or below a temperature limit to be monitored.

It is respectfully urged that the claimed invention is not anticipated by or obvious from the cited references, as will become more clearly evident from the following

detailed discussion of these references, which is presented herein for the Examiner's kind consideration.

U.S. PATENT NUMBER 2,923,786 TO JONES

Jones discloses an alarm device for use on a dial thermometer. More particularly, the device of Jones is used in a refrigerator, for example, employed in storing blood, serum or other materials which must be keep within limits of a designated temperature range, and which must maintain containers containing the materials within such temperature limits.

A container is filled with liquid such as water which assumes substantially the same temperature as materials in other containers. A dial thermometer having a sensing element connected thereto, such as a vessel containing gas, includes a sensing element inserted in container 13. A flexible conduit 16 connects the sensing element to the dial thermometer which is resident, as shown in Fig. 1, outside of the refrigerator. The thermometer is of an electrically operated type in which the sensing element is a temperature-responsive electrical device such as a thermocouple connected to a suitable meter movement mounted in the cover of the thermometer housing. The meter movement is mechanically coupled to a shaft in a conventional manner to rotate a pointer indicating temperature.

As will be appreciated by the Examiner, and particularly with respect to the rejections of Claims 13, 15, 17, 19 and 27, although Jones shows a sensing element in what appears to be a transparent container, it clearly fails to anticipate or render obvious a step of visually observing a temperature variable property of the temperature sensitive element to determine temperature conditions, particularly as to a temperature sensitive element which is placed within the thermal buffer liquid in the substantially transparent container, with the temperature indicator being viewed through the wall of the container.

Similarly, as to Claim 27, Jones clearly fails to teach or suggest the body immersed to swim in the buffer liquid with the body having different substantially discreet values of the property which can be visually observed relative to temperature limit to be monitored.

With respect to the Examiner's comment regarding Claim 31, considering that the Jones sensor is an electrical device connected via a conduit 16 to an electromechanical device (i.e., the dial thermometer) located outside the refrigerator, the concept of having a device capable of floating in water or submerged, and in particular in the form of the fish, cannot be considered obvious from Jones since there is no teachings of a comparable function such as floating or being submerged while eliminating or reducing drag force of the device.

U.S. PATENT PUBLICATION NUMBER 2003/0147450 A1
TO WITONSKY ET AL.

Witonsky merely teaches a temperature measuring device which includes a sensing strip disposed within a housing for agitating a material. It is clear that the device is merely a device for indicating whether a liquid is too hot such as in the case of coffee or soup in a mug. The mug is not transparent as fully indicated by the dash lines illustrated in Fig. 1 of the patent. More particularly, the patent specifically states at paragraph 21 thereof that the stick is withdrawn to allow the user to take a reading of the temperature of the coffee such that the reading will persist sufficiently long enough to take the reading before the sensing strip starts to cool.

Thus, the concept of having the sensing device which is readily observable through a transparent wall of a container resident in a refrigerator without disturbing the contents of the container is simply not suggested by Witonsky alone or in combination with the teachings of Jones. Such a combination would require substantial modification of Jones to eliminate the dial thermometer 14, and substantially have all of its

components reworked in a manner which is not obvious from the combination of references, absent a hindsight interpretation of the references after knowledge of Applicants' invention.

For these and other reasons, Jones and Witonsky, either alone or in combination do not teach or suggest the subject matter defined by independent Claims 13, 17 and 27. Claims 14-16, 18-24, and 28-31 depend from the previously referenced independent Claims and are allowable for the same reasons, and also because they recite additional patentable subject matter.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of Claims 13-24, and 27-31 are respectfully requested. If the Examiner has any questions regarding this Amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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CERTIFICATE OF MAILING UNDER 37 CFR 1.8

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I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

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